

FILED

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**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2002-547

WENDY LYNN BOGGS
aka WENDY LYNN BOGGSTIERNAN
aka WENDY LYNN NICHOLAS
5519 Royer Avenue
Woodland Hills, California 91367
Vocational Nurse License No. VN 182935

**FIRST AMENDED
ACCUSATION**

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.
2. On or about December 1, 1997, the Board of Vocational Nursing and Psychiatric Technicians (Board) issued Vocational Nurse License Number VN 182935 to Wendy Lynn Boggs aka Wendy Lynn Boggsticrnan aka Wendy Lynn Nicholas (Respondent). The Vocational Nurse License will expire on September 30, 2009, unless renewed.

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1 “(b) Use any controlled substance as defined in Division 10 of the Health and
2 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an
3 extent or in a manner dangerous or injurious to himself or herself, any other person, or the public,
4 or to the extent that the use impairs his or her ability to conduct with safety to the public the
5 practice authorized by his or her license.

6 “(c) Be convicted of a criminal offense involving possession of . . . any of the
7 substances described in subdivisions (a) and (b) of this section, in which event the record of the
8 conviction is conclusive evidence thereof.”

9 8. Section 2878.6 states:

10 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
11 made to a charge substantially related to the qualifications, functions and duties of a licensed
12 vocational nurse is deemed to be a conviction within the meaning of this article. The board may
13 order the license suspended or revoked, or may decline to issue a license, when the time for
14 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order
15 granting probation is made suspending the imposition of sentence, irrespective of a subsequent
16 order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw
17 his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
18 dismissing the accusation, information or indictment.”

19 CONTROLLED SUBSTANCES

20 9. Cocaine is a Schedule II controlled substance as designated by Health and
21 Safety Code section 11055, subdivision (c)(17), and is categorized as a “dangerous drug”
22 pursuant to Business and Professions Code section 4022.

23 COST RECOVERY

24 10. Section 125.3 provides, in relevant part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations
26 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 **REGULATORY SECTIONS**

2 11. California Code of Regulations, title 16, section 2504, states:

3 "All persons holding a license from the Board shall file their current mailing
4 address with the Board at its office in Sacramento, and shall immediately notify the Board of any
5 and all changes of mailing address, within 30 days after the change, giving both their old and new
6 addresses and license number."

7 12. California Code of Regulations, title 16, section 2521, states, in pertinent
8 part:

9 "For the purposes of denial, suspension, or revocation of a license pursuant to
10 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or
11 act shall be considered to be substantially related to the qualifications, functions or duties of a
12 licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a
13 licensed vocational nurse to perform the functions authorized by his license in a manner
14 consistent with the public health, safety, or welfare. . . ."

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Convictions of Substantially-Related Crimes)**

17 13. Respondent is subject to disciplinary action under section 490,
18 section 2878, subdivision (f), and section 2878.6, in conjunction with California Code of
19 Regulations, title 16, section 2521, as a result of her convictions of crimes that are substantially
20 related to the qualifications, functions, and duties of a licensed vocational nurse. Specifically,
21 Respondent was convicted of the following crimes:

22 a. On September 9, 2002, after pleading nolo contendere, Respondent
23 was convicted of one misdemeanor count of violating Vehicle Code section 14601.5,
24 subdivision (a) [driving with a suspended license] in the criminal proceeding entitled *People of*
25 *the State of California v. Wendy Lynn Boggs* (Super Ct. Los Angeles County, 2002,
26 No. 2NE02085). Respondent was sentenced to three years of probation and ordered to pay fees
27 and restitution. The underlying arrest occurred on or about August 1, 2002.

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1 b. Also on September 9, 2002, after pleading nolo contendere,
2 Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152,
3 subdivision (b) [driving with blood-alcohol content greater than .08%], in the criminal
4 proceeding entitled *People of the State of California v. Wendy Lynn Boggs* (Super. Ct. Los
5 Angeles County, 2002, No. 2NE01608). Respondent was sentenced to four days in jail, placed
6 on probation for five years, and ordered to participate in alcohol-related treatment or counseling.
7 The underlying arrest occurred on or about May 27, 2002, when Respondent was pulled over for
8 speeding by officers of the California Highway Patrol. After the officers detected a strong odor
9 of alcohol coming from Respondent, they administered field sobriety tests. Respondent failed
10 the field sobriety tests, and was subsequently arrested and booked. Blood-alcohol content testing
11 yielded results of .14% and .13%, in excess of the .08% legal limit.

12 c. On April 9, 1998, after pleading nolo contendere, Respondent was
13 convicted of one misdemeanor count of violating Vehicle Code section 23103, subdivision (a)
14 [reckless driving] in the criminal proceeding entitled *People of the State of California v. Wendy*
15 *Lynn Boggs* (Super Ct. Los Angeles County, 1998, No. PA029048). Respondent was sentenced
16 to three years of probation and fined \$450.00. The underlying arrest occurred on or about
17 January 16, 1998.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Unlawful Possession of Cocaine)**

20 14. Respondent is subject to disciplinary action under section 2878,
21 subdivision (a), in conjunction with section 2878.5, subdivision (a), as a result of Respondent's
22 unlawful possession of cocaine. On or about January 16, 1998, officers of the Los Angeles
23 County Sheriff's Department stopped Respondent when they noticed that the right brake light on
24 her vehicle was not working. Because Respondent displayed objective signs of being under the
25 influence, police searched her person and purse and discovered a paper package containing

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1 cocaine. As a result, Respondent was arrested and taken into custody. Urinalysis results later
2 confirmed that Respondent was under the influence of cocaine.¹

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Dangerous Use of Alcohol or a Controlled Substance)**

5 15. Respondent is subject to disciplinary action under section 2878,
6 subdivision (a), in conjunction with section 2878.5, subdivision (b), as a result of Respondent's
7 use of alcohol in a manner that was dangerous to herself and others. Complainant refers to and
8 incorporates all the allegations contained in paragraph 13, subparagraph (b), as though set forth
9 fully.

10 16. Respondent is further subject to disciplinary action under section 2878,
11 subdivision (a), in conjunction with section 2878.5, subdivision (b), as a result of Respondent's
12 use of cocaine in a manner that was dangerous to herself and others. Complainant refers to and
13 incorporates all the allegations contained in paragraph 14, as though set forth fully.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Alcohol-Related Conviction)**

16 17. Respondent is subject to disciplinary action under section 2878,
17 subdivision (a), in conjunction with section 2878.5, subdivision (c), and section 2878.6, as a
18 result of Respondent's alcohol-related conviction. Complainant refers to and incorporates all the
19 allegations contained in paragraph 13, subparagraph (b), above, as though set forth fully.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct / Failure to Notify the Board of an Address Change)**

22 18. Respondent is subject to disciplinary action under Code section 2878,
23 subdivision (a), in conjunction with California Code of Regulations, title 16, section 2504, as a
24 result of Respondent's failure to notify the Board of an address change within 30 days.

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26 1. Because of Respondent's successful completion of a Deferred Entry of Judgment
27 program, this arrest did not result in a cocaine-related conviction. In the interest
28 of public protection, however, section 492 permits the Board to seek discipline
based on the underlying acts

1 On December 20, 2005, the Board sent a letter to Respondent by United States Postal Certified
2 Mail Service, Article No. 7004-2510-0003-8612-9983, seeking conviction-related information.
3 On January 2, 2006, the letter was returned with a yellow sticker that stated: "Return to Sender.
4 Not deliverable as addressed. Unable to forward."

5 **SIXTH CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct / Failure to Cooperate with the Board's Investigation)**

7 19. Respondent is subject to discipline under Code section 2878, subdivision
8 (a), for engaging in unprofessional conduct in the form of failing to cooperate with a Board
9 investigation. On October 10, 2003, the Board requested detailed information related to a
10 May 2002 arrest that Respondent had disclosed. Respondent never responded to this request.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Board issue a decision:

- 14 1. Revoking or suspending Vocational Nurse License Number VN 182935,
15 issued to Respondent;
16 2. Ordering Respondent to pay the Board the reasonable costs of the
17 investigation and enforcement of this case, pursuant to section 125.3; and
18 3. Taking such other and further action as is deemed necessary and proper.
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20 DATED: February 5, 2009

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24 TERESA BELLO-JONES, J.D., M.S.N., R.N.
25 Executive Officer
26 Board of Vocational Nursing and Psychiatric Technicians
27 Department of Consumer Affairs
28 State of California
Complainant